

Attorney's Docket No.: 17329-005001

REMARKS

As an initial matter, Applicant gratefully acknowledges the Examiner's indication that a number of pending claims are patentable and allowable. To further place the remaining claims and the entire application in a better condition for allowance, the specification and the claims of this application have been amended. No new matter is added. Reconsideration and allowance of the amended application are respectfully requested.

Claims 1-41 have been amended to clarify their language based on the original specification and to place them in a condition for allowance. As an example, the amended Claim 1 now includes the feature for the dynamically initiated transmission being a multicast transmission that is sent to and is shared by a plurality of dynamically admitted users for the data block who are admitted in time to catch the beginning of the dynamically initiated multicast transmission. This is fully supported by FIG. 4C and the associated text description (e.g., pages 10-11) in the specification. Claims 42-48 have been newly added based on the original specification. Claim 47, for example, is fully supported by the description on pages 22-23.

In addition, dependent Claims 4-7, 15, 21, 22, 27 and 35 that are indicated as patentable by the Examiner have now been amended as independent claims. These amended claims are, therefore, allowable and the objections to these claims should be withdrawn.

Upon entry of the above amendments, Claims 1-48 are now pending.

1. Objection to Specification

The specification has been amended to include a brief description for FIGS. 4B and 4C as required by the Examiner. It is respectfully requested that the objection be withdrawn.

Attorney's Docket No.: 17329-005001

2. Claim Rejections under 35 USC 103(a)

The Office Action rejects the claims, other than those indicated as being allowable, under 35 USC 103(a) as being unpatentable either over Ganek in view of Brown or over Ganek in view of Brown and Ebisawa. This contention, however, is respectfully traversed.

The Office Action states that Ganek fails to disclose the dynamically transmitting feature in the pending claims but contends that Brown teaches dynamically initiating transmission in response to a user request in Col. 3, lines 31-51. Accordingly, the Office Action argues that, the combined teaching of Ganek and Brown as stated in the Office Action discloses every feature of the rejected claims at issue.

Under 35 USC 103(a), a rejection based on a combination of two references must be substantiated by a motivation or suggestion to make the suggested combination. In this regard, the Office Action fails to specifically point out where the requisite motivation or suggestion is in Ganek, Brown or elsewhere in the public domain. For this reason, the rejections are improper and must be withdrawn.

35 USC 103(a) further requires that the combined teaching disclose each feature in a rejected claim. Such a showing, however, is absent in the Office Action.

For example, Claim 1 as amended recites dynamically initiating a transmission of the front portion of the data block in response to a user request to receive the data block from a user so as to serve the user outside the pre-scheduled multicasts of the data block as a dynamically admitted user. By the admission in the Office Action on page 3, Ganek does not disclose this feature. Accordingly, Ganek also fails to

Attorney's Docket No.: 17329-005001

disclose "merging the dynamically admitted user into one of the pre-scheduled multicasts of the data block" in Claim 1.

A reading of Brown at Col. 3, lines 31-51, however fails to reveal any teaching on the missing disclosure in Ganek. This part of Brown is quoted below:

*The invention is adapted to operate in an interactive communication system. One embodiment of the invention initially receives, from a viewing node, a request for a video presentation of a particular interactive application. This embodiment then provides a near-video-on-demand (NVOD) presentation of the interactive application to the viewing node. At the time of the offer of the NVOD presentation, or during the NVOD presentation, the viewing node might request a video-on-demand (VOD) version of the interactive application in order to exercise VCR functional features (such as fast forward, rewind, pause, etc.).*

*If such a request is made, and if the system's resources would not be constrained by the transmission of the video-on-demand presentation of the interactive application, then this embodiment transmits the video-on-demand version of the interactive application to the viewing node. On the other hand, if the system's resources would be constrained by the transmission of the VOD version, one embodiment of the invention's interactive system again directs the requesting viewer to view a near-video-on-demand version of the particular application.*

Apparently, the above portion in Brown discloses features related to providing VCR functional features in NVOD/VOD services. Nothing here, however, discloses or suggests dynamically initiating a transmission of the front portion of the data block in response to a user request to receive the data block from a user so as to serve the user outside the pre-

Attorney's Docket No.: 17329-005001

scheduled multicasts of the data block as a dynamically admitted user.

Therefore, for this reason alone, the rejections based on Ganek and Brown are not supported by the teaching in Ganek and Brown in the manner presented in the Office Action. Therefore, the rejections must be withdrawn.

In addition, Claim 1 as amended recites that the dynamically initiated transmission is a multicast transmission that is sent to and is shared by a plurality of dynamically admitted users for the data block who are admitted in time to catch the beginning of the dynamically initiated multicast transmission. This feature is related to the dynamically initiated transmission and thus, once again, Ganek fails to disclose.

Brown apparently is entirely silent on this sharing of a dynamically initiated multicast by different users.

Furthermore, a review of Brown seems to suggest that Brown teaches the opposite of the recited sharing. For example, Brown suggests use of a dedicated stream to transmit data to a specific user at Col. 4, lines 42-44, and at Col. 7, lines 22-31.

Therefore, Ganek and Brown in combination fails to disclose the recited sharing of a dynamically initiated multicast by different users in Claim 1 as amended.

For at least the above reasons, Claim 1 as amended is patentable over Ganek and Brown.

Other claims rejected over Ganek and Brown are patentable for at least some of the above reason and on their own merits. For example, Ganek and Brown fails to disclose the following feature in combination in the independent Claim 3 as amended:

Attorney's Docket No.: 17329-005001

*in response to user requests from a plurality of users for the video outside the predetermined schedule for the first multicasting, dynamically initiating a multicast transmission of the video to at least a portion of the plurality of users whose requests are made in time to catch the beginning of the dynamically initiated multicast transmission;*

Ganek and Brown fails to disclose the features in the combinations in independent Claims 23, 29, 31, 36 and 39. The dependent claims of these claims are certainly patentable based on their own merits.

Now turning to Claim 41, the suggested combination of Ganek, Brown and Ebisawa as stated in the Office Action fails to disclose several features in Claim 41 as amended, including the controller operable to control the at least one server to serve a user via either the video multicast according to the fixed predetermined schedule or the dynamically initiated transmission and that the controller and the at least one server are further operable to, in response to user requests from a plurality of users for the video outside the video multicast according to the fixed predetermined schedule, direct the dynamically initiated transmission as a multicast to the plurality of users when the requests are made in time to catch the beginning of the dynamically initiated transmission multicast. Therefore, Claim 41 as amended are patentable.

Claims 42-46 are new dependent claims and are patentable over the cited prior art for the reasons stated above and on their own merits. Claims 47-48 are patentable because nothing in the cited prior art suggests the recited combinations having the prefix cache server.

In summary, all rejections and objections have been fully addressed and overcome or obviated. Therefore, Claims 1-48 are

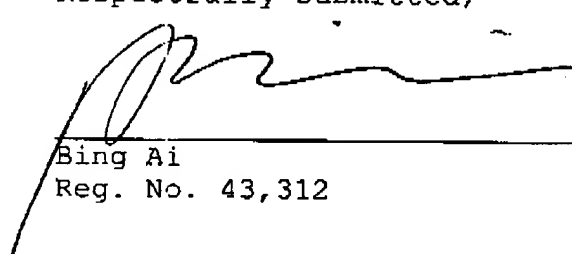
Attorney's Docket No.: 17329-005001

patentable and the application is now in a full condition for allowance.

Please charge a fee of \$1075 for excess claims and a fee of \$60 for extension of time for one month. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: March 15, 2006



Bing Ai  
Reg. No. 43,312

Fish & Richardson P.C.  
PTO Customer No. 20985  
12390 El Camino Real  
San Diego, California 92130  
(858) 678-5070 telephone  
(858) 678-5099 facsimile  
10578335.doc